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Attorneys for Defendant
UNITED AIRLINES, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROGER SOTO,

Plaintiff,

v.

UNITED AIRLINES, INC.; and DOES 1-10,

Defendants.

Case No. 2:23-cv-02148-DJC-JDP

**DEFENDANT UNITED AIRLINES,
INC.'S NOTICE OF MOTION AND
MOTION TO DISMISS, OR IN THE
ALTERNATIVE, TO TRANSFER
VENUE**

**Date: March 28, 2024
Time: 1:30 p.m.
Ctrm.: 10**

Presiding Judge: Daniel J. Calabretta

Complaint Filed: September 27, 2023

NOTICE OF MOTION AND MOTION

TO PLAINTIFF AND HIS ATTORNEY'S OF RECORD HEREIN:

PLEASE TAKE NOTICE that on March 28, 2024 at 1:30 p.m., or as soon thereafter as the matter can be heard, in Courtroom 10 of the United States District Courthouse located at 2500 Tulare St, Fresno, CA 93721, Defendant UNITED AIRLINES, INC., ("Defendant") will and hereby does move the Court for an order Dismissing Plaintiff ROGER SOTO'S ("Plaintiff") Complaint under Federal Rules of Civil Procedure 12(b)(2), 12(b)(3), and 12(b)(6), or in the alternative, to transfer venue pursuant to 28 U.S.C. §§ 1404 and 1406.

Plaintiff's Complaint should be dismissed with prejudice under Rule 12(b)(2) because this action is unrelated to Defendant's contacts within California. This Court lacks personal jurisdiction over Defendant in this matter and venue is improper. Additionally, Plaintiff's complaint fails to meet the minimal pleadings standards required by *Bell Atlantic Corp v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) to state a plausible claim for relief. Alternatively, the Court should transfer venue pursuant to 28 U.S.C. § 1404, as the contested allegations in the complaint occurred in Chicago, Illinois and litigation in the Northern District of Illinois would be significantly more convenient for the parties and witnesses. Transfer would serve the interests of justice and convenience.

Defendant's motion is based upon this Notice of Motion and Memorandum of Points and Authorities, the Declaration of Kirk Limacher, the Declaration of Emilio A. Rodriguez, exhibits and attachments thereto, and any oral argument as may be presented at the hearing, and on all other papers, records, the pleadings on file in this action, and such additional evidence and argument that the Court may allow prior to and during the hearing on this motion.

On January 8, 2024, counsel for Defendant, Emilio A. Rodriguez, sent an email to Plaintiff's counsel, Mr. Robert Barnes and Ms. Lexis Anderson, seeking to meet and confer with them regarding the Complaint's deficiencies. (Declaration of Emilio A. Rodriguez ("Rodriguez, Decl.") ¶ 4; Ex. C) On January 9, 2024, Defendant's counsel again emailed Plaintiff's counsel seeking to schedule a time to meet and confer telephonically, but no response was received. (Rodriguez Decl. ¶ 4.) On January

1 9, 2024, Defendant's counsel called the Barnes Law attempting to meet and confer with Plaintiff's
2 counsel. (Rodriguez Decl. ¶ 4.) However, neither Mr. Barnes nor Ms. Anderson were available to meet
3 and confer. (Rodriguez Decl. ¶ 4.) Defendant's counsel left a detail message advising Plaintiff's
4 counsel of Defendant's intent to file the present motion. (Rodriguez Decl. ¶4.)
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6 Dated: January 9, 2024

Littler Mendelson P.C.

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9 Michelle A. Clark
10 Gerardo Hernandez
11 Emilio A. Rodriguez

12 Attorneys for Defendant
13 UNITED AIRLINES, INC.

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